

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Valentina Concha-Toro	Team: Squad #15	CCRB Case #: 201906252	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 07/02/2019 11:42 PM	Location of Incident: [REDACTED]	Precinct: 79	18 Mo. SOL 1/2/2021	EO SOL 8/19/2021	
Date/Time CV Reported Tue, 07/02/2019 11:56 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 07/17/2019 1:05 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Anthony Bomparola	15054	955761	079 PCT
2. SGT John Zanca	01700	952366	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT John Zanca	Force: Sergeant John Zanca used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
B.SGT John Zanca	Abuse: Sergeant John Zanca frisked § 87(2)(b) [REDACTED]	[REDACTED]
C.SGT John Zanca	Abuse: Sergeant John Zanca searched § 87(2)(b) [REDACTED]	[REDACTED]
D.POM Anthony Bomparola	Abuse: Police Officer Anthony Bomparola frisked § 87(2)(b) [REDACTED]	[REDACTED]
E.POM Anthony Bomparola	Abuse: Police Officer Anthony Bomparola searched the vehicle in which § 87(2)(b) [REDACTED] was an occupant.	[REDACTED]
F.POM Anthony Bomparola	Abuse: Police Officer Anthony Bomparola searched the vehicle in which § 87(2)(b) [REDACTED] was an occupant.	[REDACTED]
G.SGT John Zanca	Abuse: Sergeant John Zanca searched the vehicle in which § 87(2)(b) [REDACTED] was an occupant.	[REDACTED]
H.SGT John Zanca	Abuse: Sergeant John Zanca searched the vehicle in which § 87(2)(b) [REDACTED] was an occupant.	[REDACTED]

Case Summary

On July 2, 2019, § 87(2)(b) submitted this complaint with the Internal Affair Bureau (IAB) on behalf of himself and § 87(2)(b). The CCRB received this complaint on July 17, 2019, via IAB log #19-26839.

At approximately 11:42 p.m. on July 2, 2019, § 87(2)(b) was driving in the vicinity of Bedford Avenue in Brooklyn. § 87(2)(b) was in the front passenger seat of the vehicle. § 87(2)(b) turned on his turn signal and crossed multiple lanes of traffic. § 87(2)(b) parked his vehicle in front of 1048 Bedford Avenue. An unmarked patrol vehicle parked behind § 87(2)(b)'s vehicle. Sergeant John Zanca and Police Officer Anthony Bomparola of the 79th Precinct approached the parked vehicle. Sergeant Zanca allegedly grabbed § 87(2)(b)'s arm and pulled him out of the vehicle (**Allegation A: Force** – § 87(2)(g)). § 87(2)(b) exited the vehicle. Sergeant Zanca frisked and searched § 87(2)(b) (**Allegations B and C: Abuse of Authority** – § 87(2)(g)). Police Officer Bomparola frisked § 87(2)(b) (**Allegation D: Abuse of Authority** – § 87(2)(g)). Police Officer Bomparola searched the vehicle in which vehicle § 87(2)(b) and § 87(2)(b) were in (**Allegations E and F: Abuse of Authority** – § 87(2)(g)). § 87(2)(b) and § 87(2)(b) were seated in the vehicle and both Sergeant Zanca and Police Officer Bomparola searched the trunk of the vehicle (**Allegations G and H: Abuse of Authority** – § 87(2)(g)). Police Officer Bomparola issued § 87(2)(b) a summons for § 87(2)(b). No arrests were made as a result of this incident.

Findings and Recommendations

Allegation (A) Force: Sergeant John Zanca used physical force against § 87(2)(b)

The investigation was provided two body-worn camera files from the incident (Board Review 01 and 02).

In Sergeant Zanca's body-worn camera video, at timestamp 23:43:54 Sergeant Zanca is standing at the driver door and § 87(2)(b) is sitting in the driver seat. Sergeant Zanca instructs § 87(2)(b) out of the vehicle and opens the vehicle door from the outside. § 87(2)(b) exits vehicle.

In § 87(2)(b)'s CCRB interview (Board Review 03) he stated that Sergeant Zanca asked him to exit the vehicle. § 87(2)(b) asked Sergeant Zanca what he meant and Sergeant Zanca told him he did not want to repeat himself. Sergeant Zanca grabbed § 87(2)(b)'s arm and pulled him out of the vehicle.

§ 87(2)(g)

§ 87(2)(g)

Allegation (B) Abuse of Authority: Sergeant John Zanca frisked § 87(2)(b)

Allegation (C) Abuse of Authority: Sergeant John Zanca searched § 87(2)(b)

Allegation (D) Abuse of Authority: Police Officer Anthony Bomparola frisked § 87(2)(b)

Allegation (E) Abuse of Authority: Police Officer Anthony Bomparola searched the vehicle in

which § 87(2)(b) was an occupant.

Allegation (F) Abuse of Authority: Police Officer Anthony Bomparola searched the vehicle in which § 87(2)(b) was an occupant.

Allegation (G) Abuse of Authority: Sergeant John Zanca searched the vehicle in which § 87(2)(b) was an occupant.

Allegation (H) Abuse of Authority: Sergeant John Zanca searched the vehicle in which § 87(2)(b) was an occupant.

In Sergeant Zanca's body-worn camera video (Board Review 01), at timestamp 23:43:58, Sergeant Zanca lifts the right corner of § 87(2)(b)'s shirt exposing the waist band of his blue jeans. Sergeant Zanca drops the corner of the shirt and bends down toward § 87(2)(b)'s legs. Sergeant Zanca walks with § 87(2)(b) to the rear of the vehicle and § 87(2)(b) walks to the rear of the vehicle. Sergeant Zanca remains standing in front of § 87(2)(b) and § 87(2)(b) as Police Officer Bomparola searches the vehicle. § 87(2)(b) and § 87(2)(b) sit back in the vehicle. Sergeant Zanca instructs § 87(2)(b) to open the trunk because there is an odor of marijuana. At timestamp 23:47:50, he approaches the open trunk and stands in the vicinity of the rear driver side wheel so that he has a view of the trunk. Sergeant Zanca walks back to the driver seat of the vehicle without reaching inside the trunk.

In Police Officer Bomparola's body-worn camera video (Board Review 02), at timestamp 23:44:24, Police Officer Bomparola's hands travel down the outside of § 87(2)(b)'s legs reaching his hands around the back of § 87(2)(b)'s hips. Police Officer Bomparola walks to the driver door of the vehicle and leans into the vehicle with his upper body shining his flashlight into the vehicle. Police Officer Bomparola opens the center console and moves the items with his hand. Police Officer Bomparola opens the rear driver side door, then the front passenger door, and then the rear passenger door, and leans into the vehicle with his flashlight. § 87(2)(b) and § 87(2)(b) sit in the vehicle. Police Officer Bomparola leans into the trunk and with his hand moves various items in the trunk.

In § 87(2)(b)'s CCRB interview. (Board Review 03) he stated he had not consumed any marijuana prior to driving the vehicle or while he was in the vehicle. There was no marijuana in the vehicle. § 87(2)(b) did not believe § 87(2)(b) consumed any marijuana prior to sitting in the vehicle. § 87(2)(b) did not consume any marijuana in the vehicle. § 87(2)(b) stated that he had crossed two lanes of traffic in 10 to 40 feet and then double parked in front of the bar, Black Swan. Sergeant Zanca touched the outside of his pants pockets but did not place a hand in any pocket. § 87(2)(b) stated that when Sergeant Zanca walked to the rear of the vehicle while the trunk was open, he was not able to observe him but believed that Sergeant Zanca searched the trunk with Police Officer Bomparola.

§ 87(2)(b) did not provide a verified statement to the CCRB. In his initial telephone statement (Board Review 04), § 87(2)(b) stated that he had not smelled the odor of marijuana in the area, either from the bar the vehicle parked in front of or from inside the vehicle.

In Sergeant Zanca's CCRB testimony (Board Review 05) he stated that he had observed the vehicle driving at a high rate of speed and switching between lanes for approximately two to three blocks. The traffic infractions the vehicle was committing was reckless driving and unsafe lane changes. Sergeant Zanca did not recall if the vehicle had ignited the turn signals when changing lanes. Sergeant Zanca made the decision to conduct a vehicle stop due to the driving infractions. There were no additional factors for the decision to stop the vehicle other than the traffic infractions. Upon approaching the driver side door, the driver side window was rolled down and he smelled the odor of both burnt and unburnt marijuana emanating from the vehicle. Sergeant Zanca did not have

an independent recollection of whether he frisked or searched § 87(2)(b) but that due to a legal bulletin, which he did not recall at the time of the interview, due to the odor of marijuana an officer is justified in searching the vehicle and occupants of the vehicle. No marijuana was recovered from § 87(2)(b) Sergeant Zanca denied searching the vehicle including the trunk of the vehicle.

In Police Officer Bomparola's testimony (Board Review 06) he stated that he observed the vehicle driving at a high rate of speed and conducting multiple lane changes without using turning signals. The vehicle double parked prior to Sergeant Zanca and Police Officer Bomparola being able to pull the vehicle over for the driving infractions. Upon approaching the passenger side of the vehicle, the window was rolled down and he smelled the odor of marijuana emanating from the passenger side of the vehicle. Police Officer Bomparola stated that he either frisked or searched § 87(2)(b) but did not have an independent recollection. He stated that in this situation he would have frisked the individual and if he felt anything that could possibly be marijuana, he would have gone into that pocket. If he would not have felt anything, he would stop at the frisk and not search the individual. Police Officer Bomparola explained that when there is an odor of marijuana in a vehicle, an officer is justified in searching the occupants of the vehicle. Police Officer Bomparola searched the vehicle because the odor of marijuana can allow him to search the whole vehicle including the trunk. Police Officer Bomparola did not recall if Sergeant Zanca searched the trunk while he was. No marijuana was recovered from either § 87(2)(b) or the vehicle. Police Officer Bomparola issued § 87(2)(b) a summons for reckless driving.

In both Sergeant Zanca's and Police Officer Bomparola's memo books (Board Review 07) they noted that the vehicle was traveling at a high rate of speed and there was an odor of marijuana.

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

According to People vs. Chestnut, 43 A.D. 2d 260 (Board Review 08), the smell of marijuana, with nothing more, can be sufficient to provide officers with probable cause to search a vehicle and its occupants.

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the only CCRB case to which § 87(2)(b) has been a party (Board Review 09)
- This is the only CCRB case to which § 87(2)(b) has been a party (Board Review 10).
- Sergeant Zanca has been member-of-service for eight years and has 15 prior CCRB allegations in seven cases.

- In Case #201500673, an allegation of a vehicle search was substantiated by the CCRB and the Board recommended formalized training. The NYPD disposition and penalty for the allegation was formalized training.
- Police Officer Zanca has been a member-of-service for six years and has 27 prior CCRB allegations in eight cases.
 - In Case #201704022, allegations of a frisk, vehicle stop, and vehicle search were substantiated by the CCRB and the Board recommended command discipline. The NYPD did not provide a disposition, nor did they provide a penalty.
 - In Case #201707955, an allegation of refusal to provide name and shield number was substantiated by the CCRB and the Board recommended command level instructions. The NYPD disposition and penalty for the allegation was instructions.
 - In Case #201710310, allegations of a frisk and vehicle search were substantiated by the CCRB and the Board recommended command discipline. The NYPD disposition and penalty for both allegations were formalized training.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]
- On January 27, 2020, emails requesting whether Notice of Claims for § 87(2)(b) and § 87(2)(b) were submitted to the New York City Comptroller's office were sent, and upon receipt will be added to the case file (Board Review 13).

Squad No. 15

Investigator: _____

Signature	Print Title & Name	Date
-----------	--------------------	------

Squad Leader: _____

Signature	Print Title & Name	Date
-----------	--------------------	------

Reviewer: _____

Signature	Print Title & Name	Date
-----------	--------------------	------